



6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY, REGION 9**

[FRL-9905-23-Region 9]

### **Reissuance of National Pollutant Discharge Elimination System (NPDES) General Permit for Offshore Oil and Gas Exploration, Development and Production Operations off Southern California**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability of final NPDES general permit.

**SUMMARY:** EPA Region 9 is today publishing this notice of availability of its final general NPDES permit (permit No. CAG280000) for discharges from offshore oil and gas exploration, development and production facilities located in Federal waters off the coast of Southern California. The general permit establishes effluent limitations, prohibitions, and other conditions for discharges from facilities that engage in such operations within the geographic coverage area of the general permit. The general permit applies to 23 existing development and production platforms as well as to any new exploratory drilling operations located in and discharging to the specified lease blocks on the Pacific Outer Continental Shelf covered by the permit. The new general permit replaces the previous general permit issued on September 22, 2004 (69 FR 56761).

**DATES:** For purposes of judicial review the permit is considered issued on (INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER). The final permit was signed on December 20, 2013 and is effective on March 1, 2014.

**ADDRESSES:** The final general permit and other related documents in the administrative record are on file and may be inspected any time between 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays, at the following address:

U.S. EPA, Region 9  
NPDES Permits Office (WTR-5)  
75 Hawthorne Street  
San Francisco, CA 94105-3901

**FOR FURTHER INFORMATION CONTACT:** Eugene Bromley, EPA, Region 9, NPDES Permits Office (WTR-5), 75 Hawthorne Street, San Francisco, California 94105-3901, or telephone (415) 972-3510. Copies of the final general permit, Addendum to Fact Sheet and the Response to Public Comments will be provided upon request and are also available at EPA, Region 9's website at: <http://www.epa.gov/region9/water/npdes/permits.html>.

**SUPPLEMENTARY INFORMATION:** Public notice of Region 9's tentative decision to issue the permit was published in the **Federal Register** on December 20, 2012 (77 FR 75429), and in the Santa Barbara News-Press on December 19, 2012. The public comment period closed

on February 4, 2013. Region 9 received written comments from eight parties concerning the proposed permit. Region 9 prepared a separate document (Response to Public Comments) which discusses these comments in more detail and Region 9's responses to the comments.

For the most part, the final permit is very similar to the permit proposed in December 2012. However, the monitoring requirements for produced water discharges were revised based on public comments and also discussions between Region 9 and California Coastal Commission (CCC) staff concerning Region 9's consistency determination for the permit pursuant to the Coastal Zone Management Act (CZMA). Region 9 also added a requirement to maintain an inventory of the chemicals used to formulate well treatment, completion and workover fluids, and if there is a discharge of the fluids, to report the chemical formulation with the quarterly discharge monitoring report. This requirement was added in response to recent concerns regarding the potential effects of discharges of fluids used for offshore hydraulic fracturing operations.

The final permit also includes a number of technical corrections and other relatively minor revisions based on public comment or other sources. These revisions are discussed in more detail in the Response to Public Comments and the final Addendum to Fact Sheet.

**B. Endangered Species Act (ESA).** The ESA and its implementing regulations (50 CFR Part 402) require EPA to ensure, in consultation with the Secretary of the Interior or Commerce, that

any action authorized, funded or carried out by EPA is not likely to jeopardize the continued existence of any threatened or endangered species or adversely affect its critical habitat.

For the 2004 permit, Region 9 concluded that the authorized discharges would not affect listed species or critical habitat for the species. For the general permit reissuance, Region 9 reconsidered this matter, but again concluded that the discharges would not affect such species. Region 9 also forwarded the draft permit and fact sheet to the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) for review and comment on Region 9's conclusion, but no comments were received.

**C. Coastal Zone Management Act (CZMA).** The CZMA provides that a Federal license or permit for activities affecting the coastal zone of a state may not be granted until a state with an approved Coastal Management Plan (CMP) concurs that the activities authorized by the permit are consistent with the CMP. In California, the CZMA authority is the CCC.

In accordance with the requirements of the CZMA and its implementing regulations at 15 CFR Part 930, Region 9 submitted a consistency determination for the draft permit to the CCC in a letter dated December 20, 2012. Region 9 and CCC staff also met in spring 2013 to discuss the permit and conditions necessary to ensure consistency with the CMP. Based on those discussions, Region 9 submitted an amended consistency determination in a letter dated May 2, 2013. At a public meeting held on June 12, 2013, the CCC concurred with Region 9's consistency determination.

**D. Magnuson-Stevens Fishery Conservation and Management Act.** The 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act set forth a number of new mandates for NMFS, regional fishery management councils, and Federal agencies to identify and protect important marine and anadromous fish habitat. Regional fishery management councils, with assistance from NMFS, are required to delineate essential fish habitat (EFH).

The Magnuson-Stevens Act requires that Federal agencies consult with NMFS on all actions undertaken by the agency which may adversely affect EFH. For the 2004 general permit, EPA concluded that the discharges would not have a significant adverse effect on EFH. After a consultation was held regarding the 2004 permit, NMFS concurred with Region 9's conclusion.

For the general permit reissuance, Region 9 reconsidered the effects of the discharges on EFH, but again concluded that the discharges would not have a significant adverse effect on EFH. The draft permit and fact sheet were forwarded to NMFS for review and comment on Region 9's conclusion, but no comments were received.

**E. Permit Appeal Procedures.** Within 120 days following the date the permit is considered issued for purposes of judicial review, any interested person may appeal the permit decision in the Federal Court of Appeals in accordance with Section 509(b)(1) of the CWA. Persons affected by a general permit may not challenge the conditions of a general permit as a right in further Agency proceedings. They may instead either challenge the general permit in court, or

apply for an individual permit as specified at 40 CFR 122.21 (and authorized at 40 CFR 122.28), and then petition the Environmental Appeals Board to review any condition of the individual permit (40 CFR 124.19).

**F. Regulatory Flexibility Act.** The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that EPA prepare a regulatory flexibility analysis for regulations that have a significant impact on a substantial number of small entities. The permit issued today is not a “rule” subject to the Regulatory Flexibility Act. EPA prepared a regulatory flexibility analysis, however, on the promulgation of the Offshore Subcategory guidelines on which many of the permit’s effluent limitations are based. That analysis has shown that issuance of this permit would not have a significant impact on a substantial number of small entities.

**G. Paperwork Reduction Act.** The information collection required by this final permit has been approved by Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et. seq.*, in submissions made for the NPDES permit program and assigned OMB control numbers 2040-0086 (NPDES permit application) and 2040-0004 (discharge monitoring reports).

Authority: Clean Water Act, 33 U.S.C. 1251 et seq.

Dated: December 20, 2013.

Jane Diamond,

Director, Water Division, EPA Region 9.

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